

E-002/CG-88-491 ORDER CLOSING DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Cynthia A. Kitlinski
Dee Knaak
Norma McKanna

Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of
Rosemount Cogeneration Joint
Venture, Biosyn Chemical
Corporation, and Oxbow Power
Corporation for an Order
Resolving a Dispute with
Northern States Power Company

ISSUE DATE: February 18, 1992

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PROCEDURAL HISTORY

On January 3, 1986, Northern States Power Company (NSP or the Company) and Biosyn Chemical Corporation (Biosyn) entered into a Power Purchase Agreement (the Agreement) under which NSP agreed to purchase capacity and energy from Biosyn's proposed Rosemount cogenerator.

Oxbow, a developer of independent power projects, later formed the Rosemount Cogeneration Joint Venture (the Joint Venture) with Biosyn. The Agreement was then assigned by Biosyn to the Joint Venture.

On July 19, 1988, the Joint Venture, Biosyn and Oxbow filed a joint petition requesting the Commission to resolve contractual disputes between the co-petitioners and NSP, and to compel NSP to honor the terms of the Agreement. The Commission responded with its September 2, 1988 NOTICE AND ORDER FOR HEARING, in which the Commission ordered that a contested case hearing be held on the petition. Hearings were held in late 1988, and the Administrative Law Judge (ALJ) issued his report on February 3, 1989.

On May 11, 1989, the Commission issued its ORDER GRANTING PETITION, CONSTRUING CONTRACT, AND REQUIRING PAYMENT OF COSTS AND ATTORNEYS' FEES. In that Order the Commission construed the Agreement and required NSP to pay the Joint Venture's costs, disbursements and attorneys' fees.

On June 18, 1990, the Joint Venture filed its Motion for Order Directing Compliance with Previous Order to Pay Costs, Disbursements, and Reasonable Attorneys' Fees. On July 25, 1990, NSP filed a petition requesting the Commission to amend its May 11 Order.

The Commission issued its ORDER DENYING PETITION TO AMEND PRIOR ORDERS AND ESTABLISHING FURTHER PROCEEDINGS ON ATTORNEYS' FEES on January 7, 1991. In that Order the Commission denied NSP's petition for amendment. The Commission stated that the Joint Venture's motion would be referred to the Office of Administrative Hearings for contested case proceedings because there remained numerous disputed fact issues regarding the payment of attorneys' fees.

On September 5, 1991, the ALJ filed his Findings of Fact, Conclusions of Law, Recommendation and Memorandum. The ALJ recommended that the Commission order NSP to pay the Joint Venture \$805,371.25, plus interest, in costs, disbursements and attorneys' fees.

On December 20, 1991, the Joint Venture and NSP submitted a Stipulation Withdrawing Motion for Costs, Disbursements, and Reasonable Attorneys' Fees in this matter. The stipulation stated that the parties have reached a settlement pursuant to which NSP will pay \$1,000,000 in full and complete satisfaction of the Joint Venture's recoverable costs, disbursements and reasonable attorneys' fees.

The stipulation came before the Commission for consideration on January 7, 1992.

FINDINGS AND CONCLUSIONS

The parties have agreed that the Joint Venture's motion for attorneys' fees is withdrawn in consideration of the stipulated payment by NSP. There is no longer any matter at issue before the Commission in this docket. The Commission will accept the parties' fully executed stipulation and will close the docket.

ORDER

1. Docket No. E-002/CG-88-491 is closed.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster
Executive Secretary

(S E A L)